

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1244

AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-29-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2004]: **Sec. 0.5. As used in this chapter, "agritourism" means the act of visiting a working farm or any agricultural, horticultural, or agribusiness operation for purposes of enjoyment, education, or active involvement in the activities of the farm or operation.**

SECTION 2. IC 4-4-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. The council consists of the following members:

- (1) The lieutenant governor.
- (2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate for a term of one (1) year.
- (3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house for a term of one (1) year.
- (4) Six (6) regional tourism industry representatives, appointed by the respective tourism regions for a term of one (1) year.
- (5) ~~Eleven (11)~~ **Twelve (12)** representatives of the private sector, appointed by the governor for a term of two (2) years. **One (1) representative must own or operate an agritourism business.**

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- (6) The executive director of the Indiana division of tourism.
- (7) The executive director of the **Indiana** department of transportation.
- (8) The executive director of the department of natural resources.
- (9) A member appointed by the Indiana Hotel and Motel Association, for a term of one (1) year.
- (10) A member appointed by the Restaurant and Hospitality Association of Indiana, for a term of one (1) year.
- (11) A member appointed by the Association of Indiana Convention and Visitor Bureaus, for a term of one (1) year.
- (12) A member appointed by the Council of Indiana Attractions, for a term of one (1) year.
- (13) A member appointed by the Indiana Gaming Association, for a term of one (1) year.
- (14) A member appointed by the Recreation Vehicle Indiana Council, for a term of one (1) year.
- (15) A member appointed by the Indiana Bed and Breakfast Association, for a term of one (1) year.
- (16) A member appointed by the Indiana State Festival Association, for a term of one (1) year.
- (17) A member who lives in a rural community and is interested in agritourism, appointed by the Indiana rural development council, for a term of one (1) year.**

SECTION 3. IC 4-4-29-6 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2004]: Sec. 6. The council shall do the following:

- (1) Assist in developing goals and objectives for the tourism division of the department, **including the following:**
 - (A) Development of Indiana's agricultural and horticultural base.**
 - (B) Job creation and retention in rural Indiana.**
 - (C) Development of agritourism opportunities to provide additional income for Indiana's agricultural and horticultural workers.**
 - (D) Product development, including the creation of outlets for the sale of crafts, foods, and other items produced in Indiana.**
 - (E) Preservation and development of historic rural resources in Indiana.**
 - (F) Local, national, and international direct marketing to increase revenue and enhance the viability of agricultural, horticultural, and agribusiness operations in Indiana.**



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(G) Public education about the impact of agriculture and horticulture on a community's quality of life.

(H) Capital and business assistance for agricultural, horticultural, and agribusiness workers to increase the viability, sustainability, and growth of agritourism businesses and services in Indiana.

(2) Establish advisory groups to make recommendations to the department on tourism research, development, and marketing.

(3) Analyze the results and effectiveness of grants made by the department.

(4) Build commitment and unity among tourism industry groups.

(5) Create a forum for sharing talent, resources, and ideas regarding tourism.

(6) Encourage public and private participation necessary for the promotion of tourism.

(7) Promote agritourism in Indiana to national and international visitors.

(8) Sustain the viability and growth of the agritourism industry in Indiana.

(9) Establish and promote an Internet web site that is linked to the computer gateway administered by the intelnet commission under IC 5-21-2 and known as accessIndiana.

(10) Create regional agritourism development plans for the twelve (12) regional offices of the department.

(11) Coordinate efforts to educate the public about agritourism and Indiana's agricultural heritage and history.

(12) Provide information concerning funding opportunities, including grants, loans, and partnerships, to persons who are interested in starting an agritourism business or who operate an agritourism business.

(13) Make recommendations to the department and the general assembly regarding any matter involving agritourism. Recommendations to the general assembly under this subdivision must be reported in an electronic format under IC 5-14-6.

(14) Generate economic vitality and tourism activity for Indiana.

(15) Position Indiana as the recognized agritourism center of the nation.

~~(7)~~ **(16) Make recommendations to the department regarding any matter involving tourism.**

SECTION 4. IC 15-4-10-12, AS AMENDED BY P.L.232-2001,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) The Indiana corn marketing council is established. **The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.**

(b) The council shall be composed of fifteen (15) members. The elected members from districts listed under section 16(a) of this chapter must be:

- (1) registered as voters in Indiana;
- (2) at least eighteen (18) years of age; and
- (3) producers.

(c) Each elected member of the council must reside in the district identified in section 16(a) of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

SECTION 5. IC 15-4-10-16, AS AMENDED BY P.L.232-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence,

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Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

DISTRICT 10. All counties in Indiana.

(b) The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.

(c) The director shall appoint two (2) representatives of first purchaser organizations to serve as members of the council.

(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. **The members appointed under this subsection are ex officio members of the council.** These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

SECTION 6. IC 15-4-10-22, AS AMENDED BY P.L.232-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. (a) The council shall do the following:

(1) Elect a chairman, vice chairman, secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

~~(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.~~

~~(4)~~ (3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.

~~(5)~~ (4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

~~(6)~~ (5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

~~(7) Provide for an independent audit and make the results of the audit available to all interested persons.~~

~~(8)~~ (6) Annually publish at the same time as the results of the audit, an activities and financial report **and** present this report to

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the budget agency and the budget committee, and make this report available to all interested persons **director.**

~~(9)~~ **(7)** Procure and evaluate data and information necessary for the proper implementation of this chapter.

~~(10)~~ **(8)** Formulate and execute assessment procedures and methods of collection.

~~(11)~~ **(9)** Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

~~(12)~~ **(10)** Take any other action necessary for the proper implementation of this chapter.

(b) ~~Eight (8)~~ **Seven (7)** affirmative votes are required for the council to take action.

SECTION 7. IC 15-4-10-24, AS AMENDED BY P.L.232-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including assessments, gifts, and grants, in any way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

~~(e) The council may not expend more than ten percent (10%) of the money it receives under this chapter for administrative expenses.~~

SECTION 8. IC 15-4-10-24.5, IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24.5. (a) The Indiana corn market development account is established within the state general fund for the purpose of market development. The account shall be administered by the council. The account consists of:**

- (1) assessments the council receives under this chapter;**
- (2) gifts; and**
- (3) grants.**

(b) The expenses of administering this chapter shall be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may expend not more than twenty-five percent

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(25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars (\$500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars (\$500,000) for administrative expenses.

(c) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the account is continually appropriated to the council for purposes of this chapter.

SECTION 9. IC 15-6-4-4, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. As used in this chapter, "milk" means any class of milk produced by dairy ~~animals~~ **cows** in Indiana.

SECTION 10. IC 15-6-4-9, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The Indiana dairy industry development board is established. **The board is a public body corporate and politic, and though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.**

(b) The board consists of:

- (1) at least nine (9); and
- (2) not more than twenty-five (25);

voting members appointed under section 12 of this chapter.

(c) Each voting member of the board must:

- (1) be a resident of Indiana;
- (2) be at least twenty-one (21) years of age;
- (3) have been actually engaged in the production of milk in Indiana for at least one (1) year; and
- (4) derive a substantial portion of the member's income from the production of milk in Indiana.

(d) The board may appoint individuals who hold offices of importance to the milk industry or have special expertise concerning the industry to participate in the work of the board as nonvoting members. Not more than five (5) individuals may be appointed under this subsection.

(e) The commissioner may participate in the activities of the board as an ex officio member.

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(f) An Indiana dairy farmer selected to serve on the national dairy board shall be a nonvoting, advisory member of the board.

(g) Fewer than fifty percent (50%) of the board members, including nonvoting members, may be members of Milk Promotion Services of Indiana, Inc.

SECTION 11. IC 15-6-4-10, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) Before ~~January 31~~, **March 31**, the board shall:

(1) determine:

(A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and

(B) the number of representatives, if any, each producer is entitled to have on the board **based on funds retained in Indiana**; and

(2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(b) The board shall make the determinations required under this section based upon:

(1) year end milk marketing figures from:

(A) the United States Department of Agriculture; **or**

(B) **any other source the board considers reliable**; and

(2) the formula prescribed under section 12 of this chapter.

SECTION 12. IC 15-6-4-12, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) The board shall appoint from among the nominations made under section 11 of this chapter one (1) board member to represent each:

(1) producer who represents at least three percent (3%) of the state's **participating** milk marketings; and

(2) group of producers who:

(A) collectively represent at least three percent (3%) of the state's **participating** milk marketings; and

(B) notify the board that the producers desire to be considered collectively for purposes of representation on the board.

(b) In addition to the members appointed under subsection (a), the board shall appoint one (1) board member to represent a producer or group of producers described in subsection (a)(2) for each additional ten percent (10%) of the state's **participating** milk marketings exceeding three percent (3%) that the producer or group of producers represents. **Not more than four (4) board members may represent**

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any producer or group of producers.

(c) The board shall make the appointments required under this section not later than thirty (30) days after the close of the period for submission of nominations under section 11 of this chapter.

(d) An appointment made by the board under this section may not result in a producer or group of producers having two (2) members on the board at the same time who represent the same share of the state's **participating** milk marketings.

(e) If a producer or group of producers entitled to representation on the board fails to submit a nomination, the board may appoint any individual who meets the requirements of section 9(c) of this chapter to represent the producer or group of producers.

SECTION 13. IC 15-6-4-14, AS ADDED BY P.L.105-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) **As used in this section, "maximum daily amount" refers to the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status.**

(b) Each member of the board who is not a state employee is entitled to a business per diem determined by the board.

(c) Each member of the board is **also** entitled to either:

(1) a per diem to cover travel and other expenses incurred in connection with the member's duties; or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

~~as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. However, board members are not entitled to a salary or per diem determined by the board.~~

(d) The business per diem allowance may not exceed the maximum daily amount allowable in the particular location where the member's duties are being performed. A mileage rate established by the board may not exceed the standard mileage rates for personally owned transportation equipment established by the United States Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the particular location where the member's duties are being performed.

SECTION 14. [EFFECTIVE JULY 1, 2004] (a) **The balance remaining on June 30, 2004, in any account or fund created by or on behalf of the Indiana corn market development council (including any account or fund under the control of a nonprofit**

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corporation or organization), is transferred to the Indiana corn market development account established by IC 15-4-10-24.5, as added by this act.

(b) This SECTION expires June 30, 2005.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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